

FISCAL NOTE

Bill #: SB0027

Title: Regulate telemarketing fraud

Primary

Sponsor: John Hertel

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
General Fund	\$177,519	\$155,519
State Special Revenue	0	\$ 25,000
Revenue:		
State Special Revenue		\$ 25,000
Net Impact on General Fund Balance:	(\$177,519)	(\$155,519)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Department of Commerce (DOC):

1. The proposed legislation mandates that the DOC register telemarketers. It is estimated that 100 telemarketers will register and post bond.

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2. Approximately 200 complaints will be received annually from consumers which will result in an investigation and litigation against the telemarketers. The 200 complaints will result in \$50,000 in fines being levied and \$25,000 actually being collected in FY 2001.
3. Implementation of the proposed legislation will require 4.00 FTE as follows: One FTE grade 17 attorney (\$40,228), 1.00 FTE grade 14 investigator (\$31,691), and 2.00 FTE grade 12 compliance specialists (\$27,300). Estimated total personal services costs are \$126,519 each year.
4. Estimated operating expenses of \$40,000 in FY 2000 and \$54,000 in FY 2001 include other services, supplies, materials, communications, travel, rent and other expenses. Additionally, four new employee office packages (\$1,000 each) and computers (\$1,750 each) are included for FY 2000 only.

Department of Justice (DOJ):

5. Under section 2(b), the DOJ will work with the DOC to adopt a single set of rules establishing forms and procedures for registration, registration renewal, and bonding of sellers or telemarketers and to administer a telemarketing fraud consumer awareness program.
6. Under section 7, the Attorney General will take legal action against fraudulent telemarketers only when requested by the DOC or by a county attorney. Most actions will be civil actions initiated by the DOC. Fewer than a dozen criminal actions will be brought each year, most by county attorneys.
7. Any cases referred to the Attorney General for criminal prosecution will be handled by existing staff of the Prosecution Services Bureau of the Legal Services Division.
8. DOC will develop and implement the consumer fraud awareness program called for in the legislation.
9. Most legal actions will be brought by the DOC or by county attorneys and the Attorney General will handle only criminal cases. No civil fines, costs, and fees will be recovered by the Attorney General under section 7.
10. The state special revenue fund discussed in Section 7 will be administered by DOC and DOJ will be a subagency.

FISCAL IMPACT:

Department of Justice: None

Department of Commerce:

	FY2000 <u>Difference</u>	FY2001 <u>Difference</u>
FTE	4.00	4.00
<u>Expenditures:</u>		
Personal Services	\$126,519	\$126,519
Operating Expenses	51,000	54,000
TOTAL	<u>\$177,519</u>	<u>\$180,519</u>
<u>Funding:</u>		
General Fund (01)	\$177,519	\$155,519
State Special Revenue (02)	0	\$ 25,000
TOTAL	<u>\$177,519</u>	<u>\$180,519</u>

Revenues:

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State Special Revenue (02)	\$ 25,000
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Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	(\$177,519)	(\$155,519)
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Referral of telemarketing fraud cases to county attorneys' offices for civil or criminal prosecution may have a fiscal impact on county governments.

TECHNICAL NOTES:

1. The bill should be amended to eliminate the requirement for both the Departments of Commerce and Justice to adopt rules on identical issues. Administrative rules are inappropriate for establishing criminal procedures, since such procedures are provided by state statute.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)

The proposed legislation would require telemarketers to register with the Department of Commerce, post a bond, establish standards of conduct for telemarketers, establish a telemarketing consumer awareness program, and provide penalties for violations.

Proceeds received from telemarketers would be deposited into a state special revenue account created by the proposed legislation and expended for the purposes as specified in the bill.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing the proceeds of this proposed legislation into a state special revenue account, consumers, telemarketers, and the Legislature will be assured that the program is enacted and working as intended. Additionally, problems which arise in regard to consumers and telemarketers would be addressed by funds directly collected for and allocated to the Telemarketing Fraud Program.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? ___Yes ___X___No (if no, explain) The DOC does not anticipate receiving enough revenue to fund the program.

- d) Does the need for this state special revenue provision still exist? ___Yes ___No (Explain)

The proposed legislation establishes a state special revenue account which is necessary to provide for the administration and accountability of the Telemarketing Fraud Program.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)

No. The dedicated revenue provision of this proposed legislation does not diminish the Legislature's ability to control expenditures or establish priorities.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)

Yes, provided the Legislature continues to mandate state responsibility for the Telemarketing Fraud Program.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The dedicated revenue provision, which is required in the proposed legislation, would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effectively and efficiently the Telemarketing Fraud Program is operating.

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If this proposal were to be funded through the general fund it would be much more difficult to determine program effectiveness and efficiency.